

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)	
)	00-0259
Petition for expedited approval of)	
implementation of a market-based)	
alternative tariff, to become effective on)	
or before May 1, 2000, pursuant to)	
Article IX and Section 16-112 of the)	
Public Utilities Act)	
)	(cons.)
Central Illinois Public Service Company)	
Union Electric Company)	
)	00-0395
Petition for approval of revisions to)	
market value tariff, Rider MV)	
)	
Illinois Power Company)	
)	00-0461
Proposed new rider MVI and)	
revisions to rider TC.)	

**PETITION FOR LEAVE TO FILE SURREBUTTAL TESTIMONY
BY NEWENERGY MIDWEST, L.L.C.**

NewEnergy Midwest, LLC (“NewEnergy”), by and through its attorney, hereby seeks leave to file Surrebuttal Testimony offered by Thomas Bramschreiber and Dr. Philip O’Connor on behalf of NewEnergy in the above-captioned matter. In support of its petition, NewEnergy states the following:

1. Rebuttal testimony addressing issues contained in Direct Testimony by NewEnergy witnesses O’Connor, Bramschreiber, and Kagan was filed by Commonwealth Edison Company (“ComEd”) witnesses Crumrine, Nichols, Huntowski, and Naumann on September 12, 2000.

2. This rebuttal testimony of ComEd witnesses is littered with misstatements and inaccurate manipulation or misrepresentation of the direct testimony filed by NewEnergy witnesses O'Connor and Bramscheiber on August 29, 2000, which latter testimony included data and conclusions that were supported by fact ("Direct Testimony").

3. NewEnergy was compelled to respond to ComEd's distortions with surrebuttal testimony that clarified the issues included in its Direct Testimony, and so filed surrebuttal testimony on September 22, 2000 ("Surrebuttal Testimony").

4. On September 26, 2000, a Joint Motion to Strike Surrebuttal Testimony of NewEnergy and Central Illinois Light Company ("CILCO") in the above-captioned dockets was filed by ComEd and Illinois Power Company ("IP"). Their motion rests in part on decisions apparently made at a July 12, 2000 prehearing conference.

5. NewEnergy's submission of Surrebuttal Testimony was made in good faith, and was not an intentional deviation from the case calendar. Indeed, we maintain, for the reasons stated and above and below, that the Surrebuttal Testimony was and is necessary to correct the record.

7. Because of the malicious nature of ComEd's rebuttal testimonies, NewEnergy believes it has been disadvantaged and prejudiced in its presentation of factual evidence in this proceeding.

8. Granting NewEnergy leave to file its Surrebuttal Testimony is the most efficient method of introducing evidence prior to the hearings scheduled for next week, and introduction of this Surrebuttal Testimony will allow cross examination of NewEnergy witnesses during those

hearings. Absent introduction of its Surrebuttal Testimony to the record, NewEnergy will be forced to expand its planned cross-examination of other parties' witnesses.

9. Failure to allow NewEnergy's Surrebuttal Testimony as a part of the record in this proceeding, will allow ComEd and IP to successfully distort the facts in this proceeding and thus be the cause of an incomplete record. This result could preclude the Commission from having sufficient and accurate evidence to reach a proper conclusion.

10. If ComEd's and IP's Joint Motion is granted, then those parties will have taken advantage of "having the last word" to the detriment of this proceeding. NewEnergy is hopeful that the Hearing Examiner will allow NewEnergy's Surrebuttal Testimony into the record during the hearings scheduled in less than one week, and allow cross-examination of NewEnergy's witnesses on the Surrebuttal Testimony. NewEnergy believes the above request is its only proper recourse to the improper methods employed by ComEd in the rebuttal testimony phase of this proceeding.

11. NewEnergy will consent to modification of the case schedule as needed to allow any and all parties the opportunity to respond to NewEnergy's Surrebuttal Testimony.

WHEREFORE, NewEnergy respectfully requests that the Hearing Examiner grant this Petition to for Leave to File Surrebuttal Testimony; allow admission of the Surrebuttal Testimony that was filed on September 22, 2000 on behalf of NewEnergy; and deny ComEd's and IP's Motion to Strike the Surrebuttal Testimony.

Respectfully Submitted,

One of the Attorneys for
NewEnergy Midwest, LLC

Dated: September 27, 2000

Julie Hextell
NewEnergy Midwest, LLC
309 W. Washington, Suite 1100
Chicago, IL 60606
(312) 704-8517

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

VERIFICATION

My name is Kennan Walsh. I am the Manager of Regional/Government Affairs for NewEnergy Midwest, L.L.C. I have reviewed the foregoing Petition For Leave to File Surrebuttal Testimony By NewEnergy Midwest, LLC. I am familiar with the matters stated therein, and the factual statements contained therein are true and correct to the best of my knowledge and belief.

Kennan Walsh

SUBSCRIBED AND SWORN
before me this 27th day
of September, 2000.

NOTARY PUBLIC

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NOTICE OF FILING

TO: SERVICE LIST

PLEASE TAKE NOTICE that on this date I have filed with the Illinois Commerce Commission, 160 N. LaSalle Street, Suite C-800, Chicago, Illinois, a Petition For Leave to File Surrebuttal Testimony By NewEnergy Midwest, L.L.C. in the above captioned matter.

DATED this 27th day of September, 2000.

By: _____
One of the Attorneys for
NewEnergy Midwest, L.L.C.

Julie Hextell
NewEnergy Midwest, L.L.C.
309 W. Washington, Suite 1100
Chicago, IL 60606
(312) 704-8517

CERTIFICATE OF SERVICE

I, Julie M. Hextell, an attorney, certify that I caused copies of the attached Petition For Leave to File Surrebuttal Testimony By NewEnergy Midwest, L.L.C. to be served on each of the interested parties by electronic and U.S. mail, this 27th day of September, 2000.

Julie M. Hextell